

**THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>IN RE:</b>	:	
<b>EARNESTINE FOSTER</b>	:	
<b>Debtor</b>	:	<b>Bk. No. 09-15241 JKF</b>
	:	
<b>BAC HOME LOANS SERVICING, L.P., F/K/A</b>	:	<b>Chapter No. 13</b>
<b>COUNTRYWIDE HOME LOANS SERVICING, L.P.</b>	:	
	:	
<b>Movant</b>	:	
	:	<b>11 U.S.C. §362</b>
<b>v.</b>	:	
	:	
<b>EARNESTINE FOSTER</b>	:	
<b>Respondent</b>	:	

**MOTION OF BAC HOME LOANS SERVICING, L.P., F/K/A COUNTRYWIDE HOME  
LOANS SERVICING, L.P. FOR RELIEF FROM AUTOMATIC STAY UNDER §362  
PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN & SCHMIEG, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtor EARNESTINE FOSTER.

1. Movant is **BAC HOME LOANS SERVICING, L.P., F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P.**
2. Debtor EARNESTINE FOSTER is the owner of the premises located at **4007 BRIAR LANE, LAFAYETTE HILL, PA 19444**, hereinafter known as the mortgaged premises.
3. Movant is the holder of a mortgage on the mortgaged premises.
4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
5. Movant has instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.
6. The foreclosure proceedings filed were stayed by the filing of the instant Chapter 13 Petition.

7. As of the date of the filing of this motion, Debtor has failed to tender post-petition mortgage payments for the months of August 2009 through October 2009. The monthly payments for August 2009 through September 2009 are \$2,855.61, payment for the month of October 2009 is \$3,333.32, for a total amount due of \$9,044.54. The next payment is due on or before November 1, 2009 in the amount of \$3,333.32. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **BAC HOME LOANS SERVICING, L.P., F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P.** requests the Court award reimbursement in the amount of \$800.00 for the legal fees and costs associated with this Motion.

9. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Rule 4001 (a)(3) should not be applicable and **BAC HOME LOANS SERVICING, L.P., F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P.** should be allowed to immediately enforce and implement the Order granting relief from the Automatic Stay.

**WHEREFORE**, Movant respectfully requests that this Court enter an Order;

a. modifying the Automatic Stay under §362 with respect to the mortgaged premises as to permit Movant to foreclose on its mortgage and allow Movant or any other purchaser at Sheriff's Sale to take any legal or consensual action for enforcement of its right to possession of, or title to, said premises (such actions may include but are not limited to the signing of a deed in lieu of foreclosure or entering into a loan modification agreement) and for legal fees and costs incurred with regard to this Motion; and

b. that Rule 4001(a)(3) is not applicable and **BAC HOME LOANS SERVICING, L.P., F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P.** may immediately enforce and implement the Order granting relief from the automatic stay; and

c. granting any other relief that this Court deems equitable and just.

/s/ PETER J. MULCAHY, ESQUIRE  
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Dated: October 30, 2009